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FRESENIUS MEDICAL CARE HOLDINGS,
INC. AND FRESENIUS USA, INC.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC.,
BAXTER HEALTHCARE SA, AND
DEKA LIMITED PARTNERSHIP,

Plaintiffs and Counter-defendants,

vs.

FRESENIUS MEDICAL CARE HOLDINGS,
INC., d/b/a FRESENIUS MEDICAL CARE
NORTH AMERICA, and FRESENIUS USA,
INC.,

Defendants and Counter-claimants.

Case No. C 07-01359 PJH (JL)

**STIPULATION TO REVISE
REMAINING CASE DATES
THROUGH TRIAL**

WHEREAS, the parties previously submitted stipulated dates setting dates through trial and on March 30, 2009, the Court adopted those dates (Dkt. No. 296);

WHEREAS, the parties have met and conferred and agree that the pretrial materials need not be filed and served prior to the year-end holidays given the currently scheduled June 28, 2010, trial date;

WHEREAS, the parties agree and respectfully request that the Court postpone the requirement that the parties provide the Court with the two sets of the parties' respective trial exhibits on the date that the pretrial submissions are to be filed and served (as required by B.3.h of this Court's July 2, 2007, Case Management and Pretrial Order (Dkt. No. 87)) and instead allow for the submission of those exhibits to the Clerk's Office two weeks prior to the Final Pretrial Conference;

NOW, THEREFORE, it is stipulated by the respective parties and their counsel of record:

The following jointly proposed table is commended to the Court for its adoption as the dates by which the present case shall proceed.

EVENT	By Local Rule or Previous Court Order	Proposed Dates
Deadline for <i>Daubert</i> Motions (Dkt 87)	No later than 35 days before Hearing Date	Unchanged No later than April 22, 2010
Deadline for Hearing(s) re <i>Daubert</i> Motions (Dkt 87)	Hearing date from date dispositive motions are heard up to and including pretrial conference hearing date provided 35 day notice and briefing schedule is followed	Unchanged No later than May 27, 2010
Final Pretrial Conference meet and confer (Dkt 87)	Not less than 40 days prior to Pretrial Conference	January 13, 2010
Joint Pretrial Statement, trial briefs, motions <i>in limine</i> , etc (Dkt 87)	Not less than 30 days prior to Pretrial Conference	January 29, 2010
Oppositions to Motions <i>in limine</i> (Dkt 87)	Not less than 15 days prior to the pretrial conference	February 12, 2010

EVENT	By Local Rule or Previous Court Order	Proposed Dates
Two sets of party premarked exhibits submitted to the Clerk's Office		May 13, 2010
Pretrial Conference		Unchanged May 27, 2010 (2:30 p.m. (PDT))
Trial	No longer than 16 trial days	Unchanged June 28, 2010

PURSUANT TO STIPULATION, IT IS SO ORDERED, the dates set forth in the STIPULATION TO REVISE REMAINING CASE DATES THROUGH TRIAL are adopted by the Court and shall govern the proceedings of the case.

DATED: November ____, 2009


 PHYLLIS J. HAMILTON
 United States District Judge

FISH & RICHARDSON P.C.

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November 11, 2009

Via ECF

The Honorable Phyllis J. Hamilton
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Re: *Baxter Healthcare, et al. v. Fresenius Medical Care Holdings, et al.*
Case No. C-07-01359 PJH (JL)

Dear Judge Hamilton:

I represent the Fresenius defendants in the above-referenced action. On November 6, 2009, the Baxter plaintiffs and Fresenius submitted for your consideration a Joint Motion to move the submission date for Pre-Trial filings in this case from December 8, 2009 to January 29, 2010.

Trial in this case is currently scheduled for June 28, 2010. However, the Court has previously raised the possibility that the trial date might be moved forward to February of 2010. I write to advise the Court that lead counsel Juanita Brooks and Ronald Castle, Fresenius' Deputy General Counsel for Litigation, will be in trial in *United States of America, ex. rel. Rebecca Gonzalez v. Fresenius Medical Care North America, et. al.* in El Paso, Texas from January 29, 2010 through February 25, 2010. Therefore, it is respectfully requested that the current trial date of June 28, 2010 remain as set.

Very truly yours,

/s/ Michael E. Florey

Michael E. Florey

MEF/jdr

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